102D CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 102-64
Part 1

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES WITH RESPECT TO THE UNITED STATES OBJECTIVES THAT SHOULD BE ACHIEVED IN THE NEGOTIATION OF FUTURE TRADE AGREEMENTS

MAY 15, 1991.—Ordered to be printed

Mr. MOAKLEY, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 146 which on May 9, 1991 was referred jointly to the Committees on Ways and Means and Rules]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the resolution (H. Res. 146) expressing the sense of the House of Representatives with respect to the United States objectives that should be achieved in the negotiation of future trade agreements, having considered the same, report thereon, without recommendation.

PURPOSE OF LEGISLATION

House Resolution 146 expresses the sense of the House with respect to the United States objectives that should be achieved in the negotiation of future trade agreements.

COMMITTEE CONSIDERATION

H. Res. 146 was introduced by Representative Gephardt on May 9, 1991 and referred to the Committee on Ways and Means and the Committee on Rules. The Committee on rules met on May 14, 1991 to consider H. Res. 146. The Committee heard testimony from Representatives Gephardt, Richardson, Kolbe, Gibbons and Levin. The Committee ordered reported H. Res. 146 without recommendation by voice vote, a quorum being present.

BACKGROUND

The President, on March 1, 1991, requested a two-year extension of "fast-track" procedures pursuant to section 1103(b)(1)(B) and (b)(2) of the Omnibus Trade and Competitiveness Act of 1988. The President's request describes three types of trade agreement that might be negotiated under this fast-track authority: the Uruguay

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Round of GATT (General Agreement on Tariffs and Trade), a bilateral U.S.-Mexico free trade agreement or a North American Free Trade Agreement (NAFTA) to include the United States, Canada and Mexico, and further trade agreements with one or more Latin American nations under the Enterprise for the Americas Initiative.

House Resolution 146 approves the President's request to extend fast-track procedures. The resolution reasserts the negotiating objectives set out in the Omnibus Trade and Competitiveness Act of 1988 with regard to the Uruguay Round of GATT trade talks. House Resolution 146 also sets out, for the first time, objectives to be achieved in a North American Free Trade Agreement (NAFTA), based upon the President's commitments in his letter of May 1, 1991, to address environmental, labor, and health and safety concerns during the negotiations.

The resolution reaffirms the provision in current law stating that fast-track procedures are enacted as an exercise in the rulemaking powers of the House and Senate with full recognition that either House, under the Constitution, may change these procedural rules at any time and in the same manner that the House or the Senate would change any other of its rules. The clear implication is that fast-track procedures are available only in so far as the Congress is consulted and the agreement lives up to the President's commitments and addresses Congress' concerns.

To some who oppose an extension of fast track, the constitutional prerogative of the House to change its own rules is a mere abstract and theoretical possibility, an empty threat. In their view, this is the last opportunity to stop or change the rules of procedure. As a practical and political matter, opponents of fast-track contend, the House cannot now approve the President's request and, within two years, overturn that judgment to derail fast-track procedures.

The ability to modify fast-track procedures is no empty threat and one need look no further to see the proof than the way most-favored-nation trade status for China was considered at the end of the last Congress. The provisions contemplated for consideration of this legislation are the very same procedures as those set out for consideration of bills implementing a Uruguay Round GATT agreement or a North American Free Trade Agreement (see discussion of fast-track procedures below). The Customs and Trade Act of 1990, on which the House completed action on August 3, 1990, reaffirmed and revised fast-track procedures for consideration of MFN disapproval resolutions; nonetheless, in October, the Rules Committee recommended and the House agreed to two resolutions (H. Res. 485 and H. Res. 503) turning off fast-track and providing for the consideration of the matter in the form of a disapproval resolution and an approval resolution, with the latter subject to four amendments.

FAST-TRACK PROCEDURES

Section 151 of the Trade Act of 1974 includes the specific "fast-track" procedures providing for the expeditious consideration of implementing measures. The section provides that:

> (1) No amendments are in order to an implementing bill or resolution and neither a unanimous consent request nor a

motion to suspend the application of section 151(d)—the prohibition against amendments—is in order.

(2) Provides for automatic discharge from committees of jurisdiction, if an implementing bill has not been reported within 45 days of its introduction.

(3) Any Member may move to consider an implementing bill, and the motion to proceed to consideration is highly privileged, unamendable and not debatable.

(4) If the motion is agreed to, up to 20 hours of general debate, equally divided and controlled by a proponent and an opponent, is provided. A motion to limit debate is in order but is not debatable.

(5) A motion to recommit an implementing bill is not in order.

METHODS OF DISAPPROVAL

The Omnibus Trade and Competitiveness Act of 1988 provides the House four methods for disapproving or modifying fast-track procedures: (1) committee action, (2) a one-House extension disapproval resolution, (3) reverse fast-track with reciprocal House and Senate resolutions, and (4) in the same manner as other rules of the House are changed.

Committee action

Within 60 days (as defined section 1103(e) of the Omnibus Trade and Competitiveness Act of 1988) of the date that the President formally notifies the Ways and Means Committee and the Senate Finance Committee of his intention to begin any bilateral negotiations regarding tariff and nontariff barriers, either Committee may vote to disapprove the negotiations which automatically turns off fast-track procedures. The 60-day window has closed both for GATT Uruguay Round and a U.S.-Mexico Free Trade Agreement.

Extension disapproval resolution

House Resolution 101 is an extension disapproval resolution. The extension disapproval method, as mentioned above, is a one-time opportunity for the House to disapprove a Presidential request to extend fast-track beyond May 31, 1991.

A simple (single-House) resolution of the form specified in section 1103(b)(5)(A) of the 1988 Act may be introduced by any member and, in the House, it is jointly referred to Ways and Means and Rules. The extension disapproval resolution may itself be considered under the fast-track procedures but only if the disapproval resolution is reported to the House by both Ways and Means and Rules on or before May 15, 1991, and only if the House considers the resolution before May 31, 1991.

Reverse fast-track

If the President's request to extend fast-track is granted, the 1988 Act contemplates a specific method to disapprove fast-track once negotiations are underway. The form of a simple (single-House) resolution is specified in section 1103(c)(1)(E) of the 1988 Act, stating that the reason for disapproval is that the President

has failed or refuses to consult during the negotiations. In the House, the reverse fast-track resolution must be introduced by the chairs or ranking minority members of Ways and Means or Rules, must be referred jointly to both Committees, may not be amended in Committee and may be considered under the fast-track procedures but only if the disapproval resolution is reported to the House by both Ways and Means and Rules. The Senate must approve a reciprocal Senate resolution within 60 days, as defined in the Act. If the Senate acts first, the House must approve a recriprocal House resolution within 60 days.

Exercise of rule-making powers

The Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974 both contain language explaining that the procedures set out are enacted "with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time." In effect, this permits the Rules Committee to recommend and the House to approve a resolution turning off fast-track procedures and providing for the consideration of an implementing measure with or without amendments and under such other constraints as the House deems appropriate. The House can consider a resolution turning off fast-track procedures at any time.

It is not an idle threat. The House has turned off fast-track procedures, as recently as the end of last Congress, when the House considered the issue of most-favored-nation trade status for China. In October 1990, the House approved two resolutions, H. Res. 485 and H. Res. 503, which turned off fast-track and provided for the consideration of four amendments to a bill dealing with China's MFN trade status.

By the same token, it is not a step taken lightly and it requires a determined majority of the House united in its will to derail fast-track. The purpose of fast-track procedures is to assure the negotiators that, at the end of their work, any legislation needed to implement an agreement will be considered expeditiously. That assurance implies that if the U.S. negotiators live up to their responsibilities—consulting Congress regularly during the process, adhering to their commitments, and meeting concerns about environmental protection, health and safety standards, labor and industry adjustment, including an effective worker retraining and adjustment assistance program, and worker rights—an agreement should be considered quickly and without amendment.

ANALYSIS OF RESOLUTION

House Resolution 146 states it is the sense of the House that fast-track procedures should be extended on the basis of the President's response of May 1, 1991 to the letters of (i) Chairmen Rostenkowski and Bentsen, and (ii) Majority Leader Gephardt.

The resolution calls on the President and the U.S. Trade Representative (and other appropriate executive branch officials) to consult, during North American Free Trade Agreement (NAFTA) negotiations, with the appropriate committees and with the congressional advisory group appointed by the Speaker, and with interest-

ed parties in the private sector. The resolution requires the President to submit a report on the progress made toward meeting the objectives stated in the resolution and requires an assessment from the Labor Advisory Committee for Trade Negotiations and Trade Policy (and other advisory committees, where appropriate) as part of their regular reports.

House Resolution 146 reaffirms the negotiating objectives for GATT from section 1101 of the Omnibus Trade and Competitiveness Act of 1988. The resolution then sets out the following negotiating objectives for NAFTA; i.e., that NAFTA must:

(1) provide strict rules of origin and measures to enforce them,

(2) maintain health and safety standards and enforcement with respect to agricultural imports,

(3) provide transition measures and other safeguards to mitigate worker, industry, and agricultural dislocations caused by the agreement,

(4) maintain U.S. laws against subsidies, dumping and other unfair trading practices,

(5) be accompanied by an effective and adequately funded worker adjustment program, and

(6) develop a joint program to address environmental problems on the borders.

The resolution reaffirms the provision in current law stating that fast-track procedures are enacted as an exercise in the rulemaking powers of the House and Senate with full recognition that either House, under the Constitution, may change these procedural rules at any time and in the same manner that the House or the Senate would change any other of its rules. The clear implication is that fast-track procedures are available only in so far as the Congress is consulted and the agreement lives up to the President's commitments and addresses Congress' concerns.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Committee vote

Clause 2(l)(2)(B) of rule XI requires each committee report to accompany any bill or resolution of a public character, ordered to be reported by a recorded vote, to include the total number of votes cast for and against the reporting of the measure.

On May 14, 1991, the committee ordered House Resolution 146 reported to the House without recommendation, by voice vote, a quorum being present.

Committee cost estimate

Clause 2(l)(3)(B) of rule XI requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended. This House resolution does not provide new budget authority, new spending authority, or new credit authority nor does the resolution increase or decrease revenues or tax expenditures.

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports. Under clause 7(d) of rule XIII, the requirement does not apply to the Rules Committee; nonetheless, the Committee makes it a practice to examine the costs that would be incurred in carrying out the measures it reports. House Resolution 146 would have no direct costs to the federal government.

Congressional Budget Office estimates

Clause 2(l)(3)(C) of rule XI requires each Committee to include a cost estimate prepared by the Director of the Congressional Budget Act, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. Below is the CBO cost estimate as required:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., May 13, 1991.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: At the request of committee staff, the Congressional Budget Office has reviewed H. Res. 146, a resolution expressing the sense of the House of Representatives with respect to the United States objectives that would be achieved in the negotiation of future trade agreements, as introduced and referred to the House Committee on Rules on May 9, 1991. We estimate that this resolution would result in no cost to the federal government.

Under current law, expedited (or "fast track") procedures for Congressional consideration of trade agreements expire after May 31, 1991, unless the President requests an extension and neither House of the Congress disapproves that request before June 1, 1991. The President has requested such an extension and H. Res. 146 would express the sense of the House that the "fast track" procedures should be extended. It also would express the sense of the House as to the objectives of any trade agreement to be negotiated, with particular objectives delineated for a North American Free Trade Agreement.

By itself, the existence of "fast track" procedures does not have a budgetary impact. The CBO baseline does not assume new trade legislation, such as potential agreements under the auspices of the General Agreement on Tariffs and Trade (GATT) or a North American Free Trade Agreement. There may be a greater likelihood of the eventual enactment of such trade legislation under "fast track" procedures.

The availability of "fast track" procedures could also affect direct spending of the Commodity Credit Corporation (CCC). Title I of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) requires additional spending $1 billion in fiscal years 1994 and 1995 combined on agricultural export subsidies if the United States has not entered into an agricultural trade agreement under GATT by June 30, 1992. That act also mandates marketing loans for wheat and feed grains and authorizes waivers of minimum acreage reduction requirements. These provisions do not apply if "fast

track" procedures are unavailable. Thus, continued availability of the "fast track" procedures would maintain the possibility that additional CCC spending would be triggered by these provisions of the reconciliation bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Eileen Manfredi.

Sincerely,

JAMES L. BLUM.
(For Robert D. Reischauer, Director).

INFLATION IMPACT STATEMENT

Clause 2(l)(4) of rule XI requires each committee report on a bill or joint resolution of a public character to include an analytical statement describing what impact enactment of the measure would have on prices and costs in the operation of the national economy. House Resolution 146 is not a bill or joint resolution, and thus is not subject to the rule. Nonetheless, the Committee notes that House Resolution 146 has no inflationary impact on the nation's economy.

OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. Clause 2(b)(1) of rule X calls on each standing committee, other than the Committees on Appropriations and Budget, to review and study the effectiveness of laws and other matters within its jurisdiction. The Committee offers no oversight findings or recommendations specifically relevant to House Resolution 146.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Operations Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Rules has received no such findings or recommendations from the Committee on Government Operations.

ADVISORY COMMITTEES

Section 5(b) of the Federal Advisory Committees Act (Public Law 92-463), enacted as an exercise of the rulemaking power of the House, requires the report accompanying any bill or joint resolution to contain certain findings of the committee with respect to any advisory committee established by the legislation. The section does not apply to the House resolution but the resolution would create no such committee.

COMPARATIVE PRINT

Clause 4(d) of rule XI requires that, whenever the Committee on Rules reports a resolution amending or repealing the Rules of the House of Representatives, the accompanying report must contain a comparative print showing the changes in existing rules proposed

to be made by the resolution. While House Resolution 146 affects House procedures, it neither directly nor permanently repeals or amends House rules.

VIEWS OF COMMITTEE MEMBERS

Clause 2(l)(5) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although neither requirement applies to the committee, the Committee always makes the maximum effort to provide its members with such an opportunity. No additional views were submitted.

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